

**MINUTES OF THE HANOVER BOROUGH
ZONING HEARING BOARD MEETING
September 21, 2020**

The meeting of the Hanover Borough Zoning Hearing Board convened at 6:00 PM Monday Evening, September 21, 2020 in the Guthrie Memorial Library – Lower Level – Bare Center, 2 Library Place, Hanover, Pennsylvania, as advertised.

Attendance: In attendance were Zoning Hearing Board Members Gary Bond, Merle Feder and James Zartman; Solicitor Senft; Staff Members Secretary Dorothy Felix and Zoning Officer P. Eric Mains, P.E.

Chairman Zartman read the following statement:

“Welcome to the September meeting of the Hanover Borough Zoning Hearing Board. As per State and Federal guidelines, we are mandated to require that masks be worn at all times throughout the course of the hearings tonight unless you have qualifying medical reasons.

If you choose to provide a statement as public comment, please make sure your mask is worn while you make your way to and from the podium. You may take your mask off as you give your comment. A Borough staff member will wipe down the podium and microphone after each speaker.

We appreciate your participation and more importantly your patience in these trying times.”

Approval of the Minutes: It was moved by Mr. Bond, seconded by Ms. Feder to approve the minutes of August 17, 2020 as presented. Motion carried.

307 East Middle Street Home Occupation – Studio & Business Office for Online Jewelry Sales:

Secretary Felix read the following Statement of the Secretary:

“An application for a Home Occupation for the property at 307 East Middle Street was submitted on September 8, 2020 by Ms. Victoria Ahn, 307 East Middle Street, Hanover, PA to establish a home occupation for a business office & studio for an online jewelry sales business. The property is located in an R-5 Residential District.

A public hearing was scheduled for Monday, September 21, 2020 at 6:00 PM.

Property owners within 200 feet of the subject property have also received notification by mail forwarded from this office on September 10, 2020.

*Signed Dorothy C. Felix, Secretary
Zoning Hearing Board"*

The applicant, Miss Victoria Ahn, was present and sworn in by Chairman Zartman.

Ms. Ahn testified to the following:

- She will be using her attic space for the workspace to create her jewelry for online sales. The attic comprises less than 50% of the square footage of the premises.
- She presented photographs for the board to view.
- There will be no customer traffic; all sales online; all orders will be shipped.
- Minimal deliveries will be through the mail, UPS or similar service; small packages only.
- There will be no signage.
- There will be no additional employees.
- There will be no set hours.
- There will be no noise, lights, or noxious odors.

Solicitor Senft questioned how the online sales could be incidental to the jewelry manufacturing business; as retail sales are prohibited in residential districts.

Ms. Feder felt the business would have a very low impact in the neighborhood.

Miss Ahn stated she is not comfortable selling her jewelry at a market or other public format due to the COVID restrictions, and prefers online sales.

Zoning Officer Mains noted that online sales are something that will be addressed in the revised zoning ordinance; right now there is nothing in the ordinance that addresses this matter.

There were no citizens present to comment on the application.

Ms. Feder moved to approve the home occupation application for Ms. Victoria Ahn for a jewelry manufacturing business and online sales at 307 East Middle Street, with the stipulation of no customer traffic to the residence. The motion died for lack of a second.

It was moved by Mr. Bond, seconded by Mr. Zartman to deny the home occupation application for Ms. Victoria Ahn for a jewelry manufacturing business and online sales

at 307 East Middle Street, due to the prohibition of retail sales in residential districts. Ms. Feder voted in opposition to the motion.

Zoning Officer Mains noted that the revised zoning ordinance will be effective in approximately 3 months and will include the new language to address online sales.

Mr. Senft suggested that Ms. Ahn could amend her application to eliminate the retail sales for now and only include manufacture of jewelry until the enactment of the revised zoning ordinance, when the matter can be readdressed. Ms. Ahn agreed to amend her application as stated.

Mr. Bond withdrew the previous motion.

It was moved by Mr. Bond, seconded by Mr. Zartman to approve the home application submitted by Victoria Ah, 307 East Middle Street, Hanover, PA for a jewelry manufacturing business with no customer traffic to the residence and no online sales.

Approval is based on testimony from Ms. Ahn, and includes the following conditions:

- The approval is solely for manufacturing of jewelry.
- There shall be no online retail sales; applicant may reapply after the adoption of the newly revised zoning ordinance in the next few months;
- The business constitutes less than 50% of the square footage of the residence;
- There will be no customer traffic;
- Minimal deliveries will be through the mail, UPS or similar service; small packages only;
- There will be no signage;
- There will be no additional employees; Ms. Ahn is the sole employee;
- There will be no set hours;
- There will be no noise, lights, or noxious odors;
- The business will not adversely affect the general character of the neighborhood.
- All changes to the business will need to come before the Zoning Hearing Board before they are affected.

There were no votes in opposition to the motion. Motion carried.

HANOVER ZONING HEARING BOARD

IN RE:

APPLICATION OF
VICTORIA AHN

HOME OCCUPATION

FINDINGS OF FACT

- 1.) Applicant is Victoria Ahn.
- 2.) The property in question is located at 307 E. Middle Street and is situated in an R-5 Zoning District.
- 3.) The applicant initially sought to operate a home business engaged in the manufacture and online sale of jewelry.
- 4.) At the hearing, the applicant verbally amended her request to seek approval to engage in the manufacture of jewelry, but withdrew her request to conduct online sales.

CONCLUSIONS OF LAW

- 1.) Applicant has proceeded under Article III, Professional and Home Occupations in Residential Districts, Section 140-28 of the Ordinance.
- 2.) Applicant has carried her burden of proof for a home occupation, as her application was amended to limit the occupation to the manufacture of jewelry, with no online sales component to the business.
- 3.) The approval for the home occupation is based on the application as amended and the testimony of the applicant.
- 4.) Any modifications to the nature of the use, operation, or occupancy of the building shall be brought before the Zoning Hearing Board before they are affected.

DECISION

For the reasons set forth above, the Hanover Borough Zoning Hearing Board, by a vote of 3-0, approves the Application of Victoria Ahn for home occupation at 307 E. Middle Street, Hanover, Pennsylvania.

ATTEST:

/s/ Dorothy C. Felix
ZONING BOARD SECRETARY

September 21, 2020

ZONING HEARING BOARD

/s/ James Zartman
JAMES ZARTMAN, CHAIRMAN

/s/ Gary Bond
GARY BOND

/s/ Merle Feder
MERLE FEDER

430 South Franklin Street Home Occupation - Online-Based Business for Firearms Transfers/Sales:

Secretary Felix read the following Statement of the Secretary:

"An application for a Home Occupation for the property at 430 South Franklin Street was submitted on September 3, 2020 by Mr. Arthur Hackman, 430 South Franklin Street, Hanover, PA to establish a home occupation for an online-based business for firearms transfers/sales. The property is located in an R-3 Residential District.

A public hearing was scheduled for Monday, September 21, 2020 at 6:00 PM.

Property owners within 200 feet of the subject property have also received notification by mail forwarded from this office on September 10, 2020.

*Dorothy C. Felix, Secretary
Zoning Hearing Board"*

The applicant, Mr. Arthur Hackman, was present and sworn in by Chairman Zartman.

Mr. Hackman testified to the following:

- There will be no inventory maintained on the property.
- All sales will be conducted online, prior to the transfer.
- Mr. Hackman has a pending application for an FFL or Federal Firearms License.
- The home occupation approval is necessary in order to proceed with the application for his FFL.
- An FFL handles the transfer paperwork from the vendor to the buyer and conducts the background check.

- After the sale, the weapon will be shipped from the supplier to the FFL, and then transferred to the buyer.

Solicitor Senft questioned the applicant, who testified to the following:

- There will be no customer traffic to the residence.
- There will be no additional employees.
- There will be no deliveries to the residence.
- There will be no signage.
- The kitchen will be used for the business, which is less than 50% of the square footage of the residence.
- There will be no set hours.

Mr. Senft noted that retail sales are not incidental to the transfer business.

Mr. Bond noted there is no way to approve the retail sales.

There were no citizens present to comment on the application.

Solicitor Senft read a letter that was received today, which will be included as an exhibit:

"The Borough of Hanover Zoning Hearing Board: We are in receipt of the notice of firearms transfer sales at 430 South Franklin Street. Since we cannot attend the meeting on September 21st we are listing the reasons that we are not in favor of this business. First, we do not need any more guns with an easy way to obtain them. Second, it would bring more traffic to this quiet street. Third, it could create more break-ins. Also this should not be in a residential (neighborhood). Sincerely, John R. Matthews, owner, 431 South Franklin Street; (illegible name), 430 ½ South Franklin Street."

It was moved by Ms. Feder, seconded by Mr. Bond to deny the application for a home occupation submitted by Mr. Arthur Hackman for an online-based business for firearms transfers/sales. Motion carried.

HANOVER ZONING HEARING BOARD

IN RE:

APPLICATION OF
ARTHUR HACKMAN

HOME OCCUPATION

FINDINGS OF FACT

- 5.) Applicant is Arthur Hackman.
- 6.) The property in question is located at 430 S. Franklin Street and is situated in an R-6 Zoning District.
- 7.) The applicant seeks to operate a home business engaged in the sale of firearms.

CONCLUSIONS OF LAW

- 5.) Applicant has proceeded under Article III, Professional and Home Occupations in Residential Districts, Section 140-28 of the Ordinance. Subsection A thereof states in pertinent part as follows:

*"The use of a dwelling occupied by the applicant for a profession or service, not in an accessory building, may be granted by the Zoning Hearing Board provided no wholesale sales or distribution are involved. **Retail sales must be incidental** to the profession or service rendered."* [Emphasis added].
- 6.) Applicant has failed to carry his burden of proof for a home occupation. Applicant's testimony reflected that the primary purpose of his business would be retail sales.
- 7.) Retail sales are not a permitted use in an R-6 District.

DECISION

For the reasons set forth above, the Hanover Borough Zoning Hearing Board, by a vote of 3-0, denies the Application of Arthur Hackman for home occupation at 430 S. Franklin Street, Hanover, Pennsylvania.

ATTEST:

/s/ Dorothy C. Felix
ZONING BOARD SECRETARY

September 21, 2020

ZONING HEARING BOARD

/s/ James Zartman
JAMES ZARTMAN, CHAIRMAN

/s/ Gary Bond
GARY BOND

/s/ Merle Feder
MERLE FEDER

1015 Shafer Drive Home Occupation - Online-Based Business for Firearms Transfers/Sales with No Inventory Maintained Onsite:

Secretary Felix read the following Statement of the Secretary:

"An application for a Home Occupation for the property at 1015 Shafer Drive was submitted on September 1, 2020 by Mr. John Elliott, 1015 Shafer Drive, Hanover, PA to establish a home occupation for an online-based business for firearms transfers/sales with no inventory maintained onsite. The property is located in an R-5 Residential District.

A public hearing was scheduled for Monday, September 21, 2020 at 6:00 PM.

Property owners within 200 feet of the subject property have also received notification by mail forwarded from this office on September 10, 2020.

*Dorothy C. Felix, Secretary
Zoning Hearing Board"*

The applicant, Mr. John Elliott, was present and sworn in by Mr. Zartman.

Mr. Elliott testified to the following:

- There will be no sales of firearms at the property; only transfers and background checks.
- He is applying for an FFL or Federal Firearms License and requests the approval to proceed with his application.
- The firearm will not be transferred to his property until the background check is completed.
- If the background check is insufficient, the firearm will be transferred back to the retailer.

- He has 110' cubic feet kitchen table where his business will be conducted.
- All transactions will be by appointment only; there will be no signs on the property.
- He has adequate off-street parking.

Solicitor Senft asked the applicant to described the sales and transfer were going to be conducted. Mr. Elliott replied that the person wishing to purchase a weapon contacts an online retailer to purchase, and the customer pays the online retailer. The customer then selects an FFL from a list provided to them. The firearm goes to a trusted party offsite where it is stored until the transfer is completed. Mr. Elliott conducts the background check and if the customer passes the background check, he receives the firearm. The transfer fees go directly to Mr. Elliott. There will be no sales; only transfer fees are collected by Mr. Elliott.

Ms. Feder asked how the "trusted party" is involved. Mr. Elliott stated this person stores the weapon under Mr. Elliott's FFL. Mr. Elliott would like to avoid neighbors' concerns, so he stores the firearms offsite.

The hours of the business would be from 10:00 AM to 5:00 PM. Business will be sporadic; and he will have no additional employees.

Ms. Feder asked Mr. Elliott when he expects to get his FFL. Mr. Elliott stated this is the first step in the permitting process.

Citizens Comments: The following citizens were present & sworn in by Chairman Zartman to comment on the application:

Sandra Sanders, on behalf of parents, 1040 Keith Drive: Ms. Sanders asked if there is a "trusted party" why isn't the transaction handled there?

Mr. Elliott replied that the FFL will be issued for 1015 Keith Drive.

Wendy Myers, 1010 High Street: Ms. Myers referenced the original deed restrictions for the Plaza Park Development which state *"No lot shall be used for retail services."*

Solicitor Senft asked for the document to be submitted as an Exhibit. He noted after viewing the document that it is references a "Homeowner's Association," and not deed restrictions.

Richard Sanders, 1040 Keith Drive: Mr. Sanders noted the property is filled with junk; afraid kids will get into it, and there is no fencing in the yard.

Mr. Senft emphasized that retail sales must be "incidental" to services rendered.

Mr. Elliott stated that the transfer is closely correlated to the sale of the firearm, since if not for the sale then the transfer would not be necessary.

Zoning Officer Mains compared the transaction to the sale of a car or a boat, as in a title transfer for an example.

Ms. Feder questioned the request in reference to the Zoning Ordinance section 140-28(b) which states:

"Application to the Zoning Hearing Board. No Home Occupation or Professional Use may be granted except upon application to the Zoning Hearing Board, which shall determine in each case whether or not such home occupation is likely to adversely affect any neighborhood, and may impose any reasonable conditions in granting same or may in its discretion deny the application."

Wendy Myers, 1010 High Street: Ms. Myers asked whether there was a restriction about the distance to schools, since Clearview Elementary is in the neighborhood.

Solicitor Senft noted there is nothing in our Zoning Ordinance addressing this.

Solicitor Senft asked for a show of hands for those in favor of the application, and those against. There were 3 in favor of the approval of the application; and 3 in favor of the denial of the application.

Chairman Zartman asked what the fee for a typical transfer would be. Mr. Elliott replied it varies according to the price of sale, but for a .30-06 as an example, the price for the transfer would be \$20.00.

Ms. Feder stated that she feels the main issue is the allowance of guns in a residential neighborhood.

Lovise Kauffman, 1019 Shafer Drive: Ms. Kauffman is concerned about the length of time the gun is in the neighborhood until it is picked up. Mr. Elliott has 3 or 4 vehicles as well as a boat on his property; parking is an issue; as well as the safety of the neighborhood and the children in a school close by.


It was moved by Mr. Bond, seconded by Ms. Feder to table the decision on the home occupation application submitted by Mr. John Elliott, 1015 Shafer Drive to establish a home occupation for an online-based business for firearms transfers/sales with no inventory maintained onsite, for further review by the Zoning Hearing Board.

The next meeting of the Hanover Borough Zoning Hearing Board will be held Monday, October 19, 2020 at 6:00 PM.

Chairman Zartman thanked all those present for their attendance and concerns this evening.

Adjournment: It was moved by Mr. Bond, seconded by Ms. Feder to adjourn the meeting at 8:00 PM. Motion carried.

Respectfully submitted,


Dorothy C. Felix, Secretary
Zoning Hearing Board